

INITIAL STATEMENT OF REASONS

SECTION 11960. Regular Average Daily Attendance for Charter Schools.

SPECIFIC PURPOSE OF THE REGULATIONS

The proposed regulations clarify the requirements for individuals to be eligible for claiming as K-12 average daily attendance when the individuals are over the age of 19.

NECESSITY/RATIONALE

The provisions of Education Code section 47612(b) have been implemented under an administrative interpretation not codified in regulations, thus demonstrating that the statute per se is in need of clarification. Regulations are the appropriate manner in which to clarify statutory requirements that control potentially substantial amounts of state funding.

SECTION 11960(c)

Clarifies that, beginning in 2003-04, a pupil who is over the age of 19 years may generate attendance for apportionment purposes in a charter school only if:

- (1) the pupil was enrolled in a public school in pursuit of a high school diploma (or, if a student in special education, an individualized education program) while 19 years of age and
- (2) without a break in public school enrollment since that time, the pupil is enrolled in the charter school and is making satisfactory progress towards award of a high school diploma (or, if a student in special education, satisfactory progress in keeping with an individualized education program) consistent with the definition of satisfactory progress elsewhere set forth in regulation.

This subdivision makes clear that it does not apply to a charter school program specified in Education Code Section 47612.1.

This subdivision defines a charter school program as specified in Education Code Section 47612.1 as being either:

- (1) the whole of a charter school, if the school has an exclusive partnership agreement with one or more of the programs specified in Education Code Section 47612.1 and serves no other pupils; or
- (2) an instructional program operated by a charter school that is exclusively dedicated to pupils who are also participating in one of the programs specified in Education Code Section 47612.1, provided that arrangement is set forth in an exclusive partnership agreement between the charter school and the program or programs specified in Education Code Section 47612.1.

SECTION 11960(d)

This subdivision specifies that no individual who is ineligible to generate attendance for apportionment purposes in a charter school pursuant to subdivision (c) may be claimed as regular attendance for apportionment purposes by a local education agency that is authorized by law to grant charters. This provision, which is not inconsistent with statute, is needed to ensure that charter granting entities do not claim individuals for ADA purposes who are ineligible under the provisions of subdivision (c) then assign

them to charter schools for instructional purposes. Such an outcome would defeat the clear intent of the statute.

The subdivision clarifies that its restrictions apply only to claims for regular average daily attendance. Thus, statutorily separate programs, such as adult education, would not be affected in any way by these regulations. This provision avoids any confusion with respect to the authority of local education agencies that grant charters to claim individuals for such separate programs in accordance with applicable law.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDIES, REPORTS, OR DOCUMENTS.

The State Board did not rely upon any other technical, theoretical, or empirical studies, reports, or documents in proposing the adoption of these regulations.

REASONABLE ALTERNATIVES TO THE REGULATIONS AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES.

The State Board was not presented with other viable alternatives to the adoption of these regulations.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS.

The State Board has not identified any alternatives that would lessen any adverse impact on small business.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS.

The proposed regulations would not have a significant adverse economic impact on any business because they only provide clarity for charter schools for the purposes of claiming K-12 attendance for apportionment purposes. The proposed regulations do not impose additional workloads on small businesses or contractors funded by the Department.